

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

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|---------------------------|---|-------------------------------|
| UNITED STATES OF AMERICA, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | Case Nos. 4:18-CR-00036-1-BCW |
| |) | 4:18-CR-00036-2-BCW |
| |) | |
| SHAWN BURKHALTER and |) | |
| JOSHUA NESBITT, |) | |
| |) | |
| Defendants. |) | |

ORDER

Before the Court is Magistrate Judge Epps' Report and Recommendation (Doc. #1302) denying Defendants Burkhalter and Nesbitt's motions to suppress regarding a black LG cellphone (Docs. #1078 & #1087). Prior to Judge Epps' November 16, 2022 evidentiary hearing on the motions, the Government filed a motion in limine seeking to exclude certain testimony at the suppression hearing. (Doc. #1280). Judge Epps' Report and Recommendation grants in part and denies in part the motion in limine. (Doc. #1302).

On February 28, 2023, Defendant Burkhalter filed objections to Judge Epps' Report and Recommendation (Doc. #1361) and Defendant Nesbitt filed a motion to join Defendant Burkhalter's objections (Doc. #1362). The Government filed a response to the objections on March 9, 2023. (Doc. 1364).

After an independent review of the record, the applicable law, and the parties' arguments, the Court adopts Magistrate Judge Epps' findings of fact and conclusions of law. Accordingly, it is hereby

ORDERED for the reasons stated in the Report and Recommendation (Doc. #1302), the Government's motion in limine (Doc. #1280) is GRANTED IN PART and DENIED IN PART. It is further

ORDERED for the reasons stated in the Report and Recommendation (Doc. #1302), Defendants' motions to suppress evidence from the black LG cellphone (Docs. #1078 & #1087) are DENIED. It is further

ORDERED Defendant Nesbitt's motion for joinder in Defendant Burkhalter's objections to the Report and Recommendation (Doc. #1362) is GRANTED as it seeks to join Defendant Burkhalter's arguments and is DENIED as it seeks the relief sought in Defendant Burkhalter's objections. It is further

ORDERED that Magistrate Judge Epps' Report and Recommendation (Doc. #1302) be attached to and made part of this Order.

IT IS SO ORDERED.

DATED: April 12, 2023

/s/ Brian C. Wimes

JUDGE BRIAN C. WIMES
UNITED STATES DISTRICT COURT